

August 25, 2023

VIA ECF

The Honorable Laura Taylor Swain
Chief United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Gregoire Tournant*, 22-cr-276 (LTS)

Dear Chief Judge Swain:

We respectfully submit this joint letter pursuant to the Court's August 16, 2023 Order (ECF No. 87) directing the parties to confer regarding the sealed portions of Mr. Tournant's papers previously filed in connection with the Motion to Dismiss (ECF No. 53). The parties agree that Defense Exhibits D, E, F, H, N, O, and P to the Declaration of Seth L. Levine filed with the Motion to Dismiss should remain sealed. The parties also agree that references to Mr. Tournant's health information in the defense's submissions may remain sealed. The parties disagree as to the remainder of the sealed filings.

Defense Exhibits D, E, F, H, N, O, and P to the Motion to Dismiss

The parties agree that Defense Exhibits D, E, F, H, N, O, and P (ECF Nos. 55-4, 55-5, 55-6, 55-8, 55-14, 55-15, 55-16) should remain sealed, but for different reasons. Both the defense and the Government reserve rights with respect to each side's position.

The defense respectfully submits that these exhibits contain Mr. Tournant's privileged information. While the defense understands and respects the Court's ruling in its August 3 Opinion and Order (ECF No. 86), we ask that the Court maintain the confidentiality of this information in order to preserve Mr. Tournant's position and to prevent substantial prejudice to Mr. Tournant in any and all future proceedings. Defense Exhibits E and F also include references to Mr. Tournant's sensitive health information, and there is good cause to keep this information sealed at present.

The Government respectfully submits that these exhibits constitute Jencks Act material (including attorney proffer statements and presentations on behalf of Allianz Global Investors) that contain details about the case that are not otherwise publicly available. In order to minimize concern that potential trial witnesses could encounter the material, or media reporting about the material, prior to their testimony, the Government respectfully submits that Defense Exhibits D, E, F, H, N, O, and P should remain under seal pending resolution of the case, but that they could be unsealed promptly at the conclusion of trial or other disposition.

Remaining Sealed Submissions

The defense also objects to the unsealing of the remaining sealed portions of Mr. Tournant's Motion to Dismiss papers. There are two categories of information that the defense maintains should be kept under seal. The first category includes redacted references to Mr. Tournant's sensitive health information in the Defense Memorandum of Law in Support of the Motion to Dismiss (ECF No. 54). To the extent the Court also wishes to address the sealed submissions filed in connection with Mr. Tournant's Motion to Compel (ECF No. 45), Defense Exhibits B and C to the Motion to Compel (ECF Nos. 47-2, 47-3) also contain references to his sensitive health information. There is good cause to keep this information sealed at present. The second category includes information that Mr. Tournant contends is privileged, which the defense respectfully maintains should be kept under seal to prevent prejudice to Mr. Tournant in any future proceedings. This includes: redacted portions of the Defense Memorandum of Law in Support of the Motion to Dismiss (ECF No. 54), other than the health-related redactions; Defense Exhibits A, B, L, M, and R to the Motion to Dismiss (ECF Nos. 55-1, 55-2, 55-12, 55-13, 55-18); redacted portions of the Defense Omnibus Reply Memorandum of Law (ECF No. 66); and the sealed letters from the Government filter team dated February 17, 2023 and March 17, 2023.

As to the remaining submissions, the Government does not object to redactions concerning the defendant's sensitive health information, but believes the submissions should otherwise be unsealed and/or unredacted. This includes: the Defense Memorandum of Law in Support of the Motion to Dismiss (ECF No. 54); Defense Exhibits A, B, L, M, and R to the Motion to Dismiss (ECF Nos. 55-1, 55-2, 55-12, 55-13, 55-18); Defense Exhibits B and C to the Motion to Compel (ECF Nos. 47-2, 47-3); the Defense Omnibus Reply Memorandum of Law (ECF No. 66); and the sealed letters from the Government filter team dated February 17, 2023 and March 17, 2023.

We thank the Court for its consideration.

Respectfully submitted,

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cc: All counsel of record (via ECF)
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